

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

REPORT AND RECOMMENDATION

The undersigned recommends that the Court:

- grant the Plaintiff's oral motion to dismiss the action without prejudice,¹ and
- waive any further payments toward the filing fee.

The Court granted *in forma pauperis* status on November 14, 2006. In that order, the Court explained that under the Prison Litigation Reform Act, the Plaintiff would have to pay the entire filing fee if he continued the action. In light of the new information, the Court gave the Plaintiff until December 4, 2006, to dismiss the action without prejudice if he wished to do so.² In a telephonic conference, the Plaintiff stated that receipt of this order was delayed several weeks and that he wished to voluntarily dismiss the action in accordance with the conditions stated in the order granting pauper status.

¹ See Courtroom Minute Sheet - Telephonic Conference (Jan. 10, 2007).

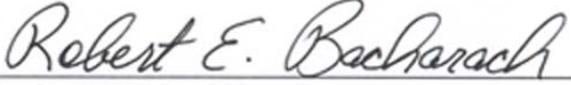
² See Fed. R. Civ. P. 41(a)(1)(j).

In light of the mail delay, the undersigned recommends that the Court: (1) grant the Plaintiff's oral motion for dismissal of the action without prejudice, and (2) waive any further payments toward the filing fee.

Any party may file written objections with the Clerk of the United States District Court. *See* 28 U.S.C. § 636(b)(1) (2000). The deadline for objections is January 31, 2007. *See* W.D. Okla. LCvR 72.1(a). The failure to file timely objections would result in waiver of the right to appeal the suggested ruling. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *see also Marshall v. Chater*, 75 F.3d 1421, 1426 (10th Cir. 1996) ("Issues raised for the first time in objections to the magistrate judge's recommendation are deemed waived.").

The referral is terminated.

So ordered this 11th day of January, 2007.



Robert E. Bacharach
United States Magistrate Judge